

Federal Communications Commission FCC 12-121
Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
Amendment of the Amateur Service Rules
Governing Qualifying Examination Systems
and Other Matters Amendment of Part 97 of
the Commission's Amateur Service Rules to
Give Permanent Credit for Examination
Elements Passed Amendment of Part 97 of
the Commission's Rules to Facilitate Use in
the Amateur Radio Service of
Single Slot Time Division Multiple Access
Telephony and Data Emissions
Request for Temporary Waiver
Amendment of the Amateur Service Rules
Governing Vanity and Club Station Call
Signs

WT Docket No. 12-283
RM-11629
RM-11625
WT Docket No. 09-209

COMMENTS ON THE NOTICE OF PROPOSED RULE MAKING AND ORDER

By Martin D. Wade, POB 16, Galliano, Louisiana 70354, a Commission Licensee in the Amateur Radio Service, holding Operator's License as an Advanced Class with call sign N5PZJ: Also, I have served as a VE as the occasion requires.

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I. INTRODUCTION

1. In this *Notice of Proposed Rule Making and Order*, I propose to support the movement to amend Part 97 of the Commission's Rules for the reasons herein set forth

II. DISCUSSION

A. Examination Credit

1. I move the idea forward that the Credit for a Previous License Held by a person in the Amateur Radio Service where the FCC has data to support the License Grant based upon credit to be given for previous elements held by the previous holder of an Amateur License with the following caveats:

- a. Where the FCC has a direct data whether by computer or hard copy in the FCC archives, the grant of a new license should be simple and quick via the VEC System where ULS has data to support the grant of a license.
- b. Where the FCC archives are silent, other methods should be employed to determine the appropriate response to ensure only those persons who qualified for Licenses in the Amateur Service, namely:
 - 1. The Original Amateur Radio License, which should have to be submitted to the VEC.
 - 2. A Copy of the Amateur Radio Call Book page showing the Call sign duly certified under oath both by the person declaring him or her to be the person therein described along with custodian or owner of the Call book under oath.
 - 3. Documentation from a duly organized and recognized Amateur Radio Club certified by its Secretary or other Officer under Oath concerning a person's history as it relates to the previous having been licensed in the Amateur Service.
 - 4. A manual search of the FCC records by the FCC archives by the FCC Contractor after a payment of the proper costs and fees for said search. A copy duly certified by the Commission should suffice if other documentation is able to demonstrate the any address changes if any.
 - 5. Should the address or any other information be different then by submitting satisfactory evidence demonstrating a "Chain of Custody" or

documentation trail to establish the clear identification of the applicant as the same person in the Original License Grant to prevent persons with similar names from acquiring licenses by fraud or misrepresentation.

6. If the record is silent on the Class of License previously held, then if it can be determined that the person did in fact hold a grant of license, then a letter under Oath from another Amateur License Holder having personal knowledge of the Facts of the License be admissible as evidence to establish the Class of license. The testifying Amateur should have no blemishes on his record as a Licensee, be under the requirements as those needed to serve as a VE and all testimony is under Oath as mentioned.
- c. A Certificate of Successful Completion (CSCE) may be accepted with the following caveats:
1. The Original Certificate shall be submitted to the issuing VEC by a candidate.
 2. Accompanying the Certificate shall be a statement under Oath certifying that he or she is the person and he or she has passed the element in question.
 3. Should the VEC not be active, then the CSCE shall be submitted only if an Original VE is available, then a Statement under Oath from the Original VE shall suffice and maybe submitted to any VEC for processing.
 4. No issuing VEC should be required to accept a CSCE which the issuing VEC feels there is a question as to its validity. The purpose of this

response is to recognize that CSCE was used as a sort of a place holder in line whereas a Candidate has passed a certain element for example, written General or Morse Code and allowed a 365 day credit while the companion element could be passed and allowing the Candidate to assume the higher class of license. The Temporary nature of the CSCE must bring forth stringent rules as to their acceptance as to prevent misuse and misrepresentation in the course of their acceptance.

- d. Expired Technician Class operator licenses granted before March 21, 1987 Should be considered as General Operator Licenses as this rule is fair and factual and no person, no matter how remote the possibility of the application of the rule, I know of one person who was eligible and availed themselves to the rule within the fiscal year 2012. To eliminate this rule or change the rule would be fundamentally unfair to those persons who complied with the rule and passed the test only to find them denied the credit due to a rule change.ⁱ
- e. Any person claiming credit for any element shall prove their eligibility by demonstrating a chain of custody or a document trail from the address shown on the original grant to the present address.
- f. The fact that the Applicant will be signing an application under pain of perjury as Title 18 Section 1001 Code of Federal Statutes concerning False Statements should be enough to provide a legal basis to prosecute or bring legal action for obtaining an Amateur Radio License under false pretenses. If this statement is sufficient for the Federal Government to cover any personal oaths to be made by the applicant to the Commission.ⁱⁱ

2. To allow a person to regain his or her Amateur Radio Service license as proposed the Commission is fair and in the best interest of the Amateur Radio Service as to allow re-entry into the Amateur Radio Service without reexamination promotes a fairness since other licenses are issued for the life of the person, namely the GROL. The Act of allowing indefinite credit is a purely administrative act (see Melachrinos)ⁱⁱⁱ and to deny Amateur Radio Operators the same privilege and application is a violation of the 14th amendment of the United States Constitution which creates separate applications being applied to separate persons under the same conditions. (i.e. Commercial Licensees are for LIFE and Amateur Service Licensees are for 10 year periods.) It is not unusual for amateur licensees who have not operated for years or decades due to personal circumstances but who maintained their licenses to resume activity upon reaching a different stage of their lives. I have been inactive at periods due to raising a family, medical reasons, pursuing a career or going to school or college.

3. “Anchorage VEC asserts that it is unfair that after the grace period for renewal of an amateur radio license ends, a former licensee “loses all credit for any elements passed, and must start all over if they want to continue their amateur radio activities.” Licensees who renew their licenses are not required to sit for reexamination regardless of how long ago they were first licensed. Anchorage VEC argues that the passage of time does not invalidate the knowledge of a person with an expired license any more than it does the knowledge of a person

renewing a license.” This quote from the NPRM demonstrates the position most clearly of the petitioner also.

4. Leaving the Grace period at TWO (2) Years would be desirous due to having a shorter time period would not take into account a person's personal difficulties or problems which might preclude a timely renewal. Although renewal has been made fairly simple with the ULS system, unforeseen difficulties can compound a person's life and for that reason the lengthy grace period should be retained. I am aware of a Licensee who was inactive for a period due to personal reasons and we were able via Computer to have this person renew his license immediately.
5. It is the Commission's and public's interest, convenience and necessity to contain the costs while presenting the maximum benefits to the public. No changes are required to be made to any of the license classes.

B. THE VEC SYSTEM AND REDUCTION OF EXAMINERS

1. Reducing the number of examiners from 3 to 2 will not impact the examination process since Canada^{iv} only requires one person to proctor an examination.

2. I am moving forward to the Commission that the VEC should be permitted to perform remote testing or proctoring of examinations with some flexibility left to the VEC's judgment as to either requiring a VE or other suitable person to proctor the examination under remote conditions as may be found in areas of low population density, persons confined by health or locality.

a. The VEC should be allowed to waive the requirement to have Two (2) Volunteer Examiners present at an examination by having the VEC, in his or her sole judgment certify that:

1. A Volunteer Examiner (VE) was present at the Exam Site with another VE either watching by remote video link or with an examination session by having non amateurs present duly certified by the VEC with the following qualifications:

- A. An Officer in the Armed Forces of the United States, either Commissioned or Warrant Status who is able to proctor exams.**
- B. A Judge, Justice of the Peace, or Notary Public,**
- C. Municipal, County or Tribal Clerk.**
- D. Active Duty Law Enforcement Officer.**
- E. A certified Teacher or Principal.**

The reasoning is to have the second proctor being from a certain subset of official persons as to lend some weight and dignity to the Examination Process and to prevent questionable items impugning the examination and lending itself to the appearance of impropriety and scandal.

- b. Remote examinations by third parties such as Schools, Institutions of Higher Learning, Technical Learning Centers and Commercial Exam Centers should be allowed with the proper safeguards with the adoption of the Rule allowing the VEC flexibility in testing on secure computer systems, as is now done with COLEMs to administer tests on secure computer systems, as is presently done in the Commercial Series of FCC Elements. Once a candidate passes an exam element, qualifying that person for a License Grant, a Certified copy of the passed element should be forwarded along with a signed application to the VEC within 7 days with no credit to be given for Certificates not filed timely. This would prevent fraud in the system by trying to later claim credit for an element passed by another candidate.**
- c. By allowing the VEC flexibility in the matter of examination methods will allow the adaptation of different situations which promote fairness of equity and equality in the examination process. By allowing the adoption of methods to fit the situation for the examination, this will allow the VEC in his or her judgment to prepare for almost any situation and make examinations more available and convenient to the public. The VECs know and trust their examiner's and processes' and should be allowed to develop their own policies and procedures. The Commission and public have to have trust and have confidence in the examination system and to allow the VEC to act in accordance with the intent and understanding of the regulations in a responsible and trustworthy manner. It being understood the Commission has final oversight should the occasion require.**

C. Vanity Calls

1. As proposed, the Commission should handle the Vanity Call System as it sees fit due to the Commission being best to Judge the Costs and benefits since the revenue generated is minimal to the Commission.

D. Morse Code Examination

THE PROPOSAL TO AMEND SECTIONS 97.307, 97.507, AND 97.509 OF THE COMMISSION'S
RULES⁵⁰ TO REFLECT THAT THE COMMISSION AMENDED ITS RULES TO ELIMINATE THE
REQUIREMENT THAT CERTAIN AMATEUR RADIO SERVICE LICENSEES PASS A MORSE CODE
EXAMINATION.⁵¹ MOST OF THESE RULE CHANGES (I.E., THE CHANGES TO SECTIONS 97.507
AND 97.509) WERE ADOPTED IN THAT RULEMAKING PROCEEDING,⁵² BUT WERE INADVERTENTLY
OMITTED FROM THE FEDERAL REGISTER SUMMARY⁵³ AND THUS NEVER TOOK EFFECT. THE
PROPOSED CHANGE TO SECTION 97.307(F)(10) SIMILARLY WOULD DELETE A REFERENCE TO
RECEIVING ELEMENT CREDIT FOR PASSING A TELEGRAPHY EXAMINATION.

This item is a housekeeping item and should be adopted by the Commission without delay and controversy.

E. Emission types

As a Licensee in the Amateur Service, the umbrage I take is that the ARRL Petition was denied and the relief and solution which was apparent to the Commission Staff was not supplied and corrected^v. The Commission and its Staff should immediately reverse itself and allow the Amateur Radio Service to Use any and all emission types without regard to designation but only limits should be according to bandwidth with ID to be done with CW or Voice with an approved voice or digital type. The basis for allowing The Amateur Radio Service any emission standard is one of the cornerstones' of Amateur Radio as stated in Part 97 Section 1 et seq as "A radio communication service for the purpose of self training, intercommunication and technical investigations carried out by amateurs; that is, duly authorized persons interested in radio technique solely with a personal aim and without pecuniary interest." The advancement of the Radio Arts in the United States of America demands that in order for this country we must lead in the availability of spectrum and permission to experiment and expand the communications art and technical investigation.

III. CONCLUSION

It is in the public interest; convenience and necessity to revise the Amateur Service Rules to best serve the Public and lessen the burden on the Commission.

Sincerely,

S/ MARTIN D. WADE

Martin D. Wade, N5PZJ

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ⁱ A holder of an expired Technician Class operator license granted before March 21, 1987 receives credit for examination element 3. See 47 C.F.R. § 97.505(a)(4). Element 3 is the examination element needed to upgrade from Technician Class to General Class. See 47 C.F.R. § 97.501(b), (c). Formerly, the written examination for Technician Class and General Class was the same. (The difference in the requirements for the two licenses was in the Morse Code test.) In 1987, the Commission split the element into one examination for the Technician Class license and an additional examination for the General Class license, but provided that licensees who had passed the consolidated examination would still receive credit for the written examination required for a General Class license. See Amendment of the Amateur Radio Service Rules to Expand the Privileges Available to Novice Operators,

ⁱⁱ Title 18 Section 1001 of the Federal Code deals with False Statements made under penalty of perjury.

ⁱⁱⁱ Stephen J. Melachrinis (Melachrinis) Comments made and referenced in the Original 12-283 Notice.

^{iv} See WWW.RAC.CA reference Industry Canada, www.ic.gc.ca under Radio Regulations.

^v See ARRL Petition at 1, 3-5. The ARRL Petition went on public notice on March 23, 2011. See *Public Notice*,